

**PLANNING AND ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
June 14, 2005**

Place: Room 206  
Town Hall

TIME: 8:00 PM

PLANNING AND ZONING COMMISSION MEMBERS ATTENDING:  
Damanti, Conze, Spain, Bigelow, Forman, Kenny

STAFF ATTENDING: Ginsberg, Keating  
COURT REPORTER: Bonnie Syat

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**PUBLIC HEARING**

Mr. Damanti read the first agenda item:

**Continuation of Public Hearing regarding Business Site Plan #239, Peter Ike, New England Window & Door, 1911 Boston Post Road.** Proposing to establish a window, door and kitchen showroom within the front building on the property. The subject property is located on the north side of Boston Post Road approximately 215 feet northeast of its intersection with Garden City Road, and is shown on Assessor's Map #42 as Lot #5, in the NB Zone.  
*PUBLIC HEARING OPENED ON MAY 24, 2005.*

Mr. Damanti noted that the public hearing on this matter had been opened on May 24, 2005. Mr. Ike was present to discuss the application. Mr. Ginsberg noted that he had researched the property with Mr. Ike soon after the May 24<sup>th</sup> public hearing. They went to various departments including the Building Department, Town Clerk's office, and Assessor's office. As a result of their effort, the best site plan available was a 1968 site plan which had been submitted by Mr. Ike for the record for this public hearing. Although a portion of the property was labeled to be in the CB Zone, it was stated that that is now the Neighborhood Business (NB) Zone. The other map submitted for the record was from 1943. The letter from Mr. Ginsberg noting the various research efforts was dated June 10, 2005. Mr. Ike said that there are four buildings on the one parcel, not three buildings. Mr. Ike explained that the front house now has three apartments but Town records show only two apartments. The former greenhouse building which now has a metal roof was used for storage for Flaherty plumbing. The front commercial building which is the former insurance office is where Mr. Ike would like to put his window and door business. Mr. Ike explained that before that it was a barber shop. The three car garage on the property was built in approximately 1935 and has always been used to support the commercial business on the property. Mr. Ike noted that the house in the rear of the property is an existing single family dwelling with one kitchen. There are now three unrelated people living in that residence. Mr. Ike stated that Flaherty Plumbing is now a tenant in the former greenhouse.

Mr. Ike said that he would like the Commission to recognize the property as it has been for over 50 years. He bought the property the way it is and has a mortgage which has to pay for itself. Mr. Ike explained that there is no legitimate parking within the NB (commercial) Zone. Mr. Ginsberg explained that there are clearly violations on the property that need to be corrected immediately. Mr. Bigelow said that he remembers an insurance agent on this property sometime in the 1970's.

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It was noted that the bank site next door is also within a commercial zone and that the zoning might extend deeper than the commercial portion of this subject property.

In response to a question, Mr. Ginsberg said that the various parking regulations as applied to the property would be as follows: each dwelling unit on the property would be required to have two spaces. Since there is a dwelling unit in the rear of the property and one in the front of the property that would be four spaces total. The 2,000 square feet +/- former greenhouse which is now used for storage would have a parking requirement of one space per 500 square feet. The commercial sales and service for the window and door establishment would be counted at one space per 100 square feet and since there are 800 square feet for that use, 8 spaces would be needed. Flaherty Plumbing would be considered an office use at a rate of one space per 250 square feet. The Commission members noted that they will need an updated, accurate survey of the property and Mr. Ike will need to resolve the existing violations prior to any re-application for the property. It was agreed that it is best to resolve the matters now so that things are resolved for the future. It was mentioned that the maps are not consistent and might be wrong. Mr. Ike stated that "Whatever you decide, I will abide by."

Mr. Damanti asked if there were any questions or comments or concerns from the general public. There were none. Mr. Damanti said to Mr. Ike that the application can be withdrawn by the applicant prior to a decision, or the Commission can go ahead and make the decision. There being no other questions or comments from Commission members, Mr. Conze made a motion to close the public hearing on this matter. The motion was seconded by Mr. Bigelow and unanimously approved.

Mr. Damanti read the next agenda item:

**Amendment of Business Site Plan #24-M/Special Permit, Mamma Mia Pizzeria, 25 Old King's Highway North.** Proposing to establish outdoor dining in front of the existing restaurant. The subject property is within Goodwives Shopping Center, which is located on the south side of Old King's Highway North, approximately 150 feet southwest of its intersection with Brookside Road, and is shown on Assessor's Map #71 as Lot #19 in the DC Zone.

Mr. Damanti noted that nobody was present this evening representing the applicant. This item will be postponed until later this evening.

Mr. Damanti read the next agenda item:

**Business Site Plan #24-O/Special Permit, Baskin-Robbins Ice Cream, 25 Old King's Highway North.** Proposing to establish an ice-cream parlor within Goodwives Shopping Center. The subject property is within Goodwives Shopping Center, which is located on the south side of Old King's Highway North, approximately 150 feet southwest of its intersection with Brookside Road, and is shown on Assessor's Map #71, as Lot #19, in the DC Zone.

Architect Neil Hayes of Mingilello & Hayes Architects was present on behalf of the applicant. He noted that the subject space is approximately 995 square feet and was formerly used as The Bottle Shop within Goodwives Shopping Center. They propose to have 12 interior seats. They will have a

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handicapped accessible bathroom and a front entrance to the building for customers. The rear door for the property is for loading only and not for customer access. Any proposed sign will be in the same location as the former Bottle Shop sign.

Mr. Hayes explained that the Fire Marshal has reviewed the application and the space will become sprinklered by this new tenant. They continue to work with the Darien Health Department for final approval of the interior floor plans. Mr. Hayes mentioned that there will be approximately two employees per shift and that there are two Dumpsters in the rear of the property for stores in this area of Goodwives Shopping Center. One of the Dumpsters is for trash/garbage and the other Dumpster is for cardboard.

Mr. Hayes said that they are proposing 12 indoor seats and, if allowed, they will place a 6 foot long bench outside the store. He noted that Baskin Robbins would eventually like to have tables and chairs in the front of the building on the sidewalk. Mr. Hayes said that it is a very wide sidewalk in front of the space. He mentioned that there is lots of common parking in Goodwives Shopping Center.

In response to a question, Mr. Hayes explained that the existing Baskin Robbins on Boston Post Road is approximately 300 square feet larger than the proposed space.

Commission members noted that one of the submitted floor plans shows 18 seats. Mr. Hayes responded that that floor plan has been superseded and they are only requesting 12 seats, but would like as many seats as possible either now or in the future. Commission members noted that this was a conversion from a retail liquor store to an ice cream shop. Mr. Ginsberg said that parking in the Goodwives Shopping Center has traditionally been considered by the Commission to be adequate as there are now over 400 spaces within the parking lot. It was mentioned that the final number of actual seats within the building will depend upon fire egress, the Health Code, and whatever the Planning & Zoning Commission approves.

There were no further comments or questions from Commission members nor were there any comments or questions from the general public. Mr. Conze then made a motion to close the public hearing on this matter. Mr. Kenny seconded that motion, which was unanimously approved by the Commission.

Mr. Damanti read the next agenda item:

**Amendment of Business Site Plan #24-M/Special Permit, Mamma Mia Pizzeria, 25 Old King's Highway North.** Proposing to establish outdoor dining in front of the existing restaurant. The subject property is within Goodwives Shopping Center, which is located on the south side of Old King's Highway North, approximately 150 feet southwest of its intersection with Brookside Road, and is shown on Assessor's Map #71 as Lot #19 in the DC Zone.

Mr. Ginsberg explained to the Commission members that representatives from Mamma Mia were not prepared to go ahead tonight as they had not completed the required proof of mailings. This agenda item will be postponed to another evening in June or July.

Mr. Damanti read the next agenda item:

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**Amendment of Business Site Plan #109/Special Permit, 980 Boston Post Road Associates, LLC, 980 Boston Post Road.** Proposing to establish outdoor dining in front of the existing building. The subject property is located on the south side of Boston Post Road, approximately 175 feet west of its intersection with Center Street, and is shown on Assessor's Map #72 as Lot #6, in the CBD Zone.

Mr. Conze noted that in his opinion, the Board of Selectmen should have referred this matter to the Planning & Zoning Commission instead of voting on it. Mr. Spain said that he fully understood the March 2004 Resolution of the Board of Selectmen that they were fully in favor of outdoor dining within Darien. He said that the recent Selectmen vote was just five citizens voicing their opinion and is not binding upon the Planning & Zoning Commission.

Attorney Robert Maslan was present on behalf of the applicant. He said that the Selectmen had a general statement for use of Town property for outdoor dining. He noted that the area in question is actually State property. They are requesting permission to change from benches to tables and chairs. He explained that the response from the State of Connecticut Department of Transportation is that they do not take a position on such a change. He noted that the benches are part of the Town Plan of Development and the Downtown Task Force.

Mr. David Genovese said that they have contacted the Connecticut Department of Transportation and they voiced no objection. He referred to the submitted survey which shows that the building is right on the front property line and anything placed in front of that building would not be on the subject property, but rather would be on State property. Mr. Conze said that perhaps the Board of Selectmen's office could contact D.O.T. to get guidance from them.

Mr. Maslan said that the proposal is to replace the existing benches and landscaping with three tables and six chairs in front of Upper Crust Bagels and three tables and six chairs in front of the proposed Cosi restaurant. He noted that the Town of Darien picks up trash in the area. There was a question on whether there was ever a letter received from D.O.T. when the sidewalks were redone in the 1980's and whether such a letter would mention the use of benches and/or street furniture. Mr. Maslan noted in response to a question that based upon the survey, it appeared that there was 12 feet from the building line to the curb in front of the building. Ms. Forman noted one important distinction between benches and tables and chairs is that benches do not get moved by the users whereas a party of three sitting at one of the tables would likely move one of the chairs to be further encroaching into the sidewalk. She said with tables and chairs people are more likely to spread out and make themselves comfortable. Mr. Damanti said that if the Commission is going to encourage downtown uses, they need to make sure that there is adequate room for pedestrians to walk through. The Commission feels very strongly about "pedestrian friendly" downtowns. Mr. Maslan then submitted photographs of the existing benches and the proposed tables and chairs. Mr. Maslan did confirm that if chairs are moved or re-located that it could cause an obstruction of the sidewalk. He noted there are a number of policy questions. Mr. Keating then asked where does the Commission "draw the line." He said that a bench is considered street furniture and is perfectly acceptable whereas tables and chairs are not where the line has traditionally been drawn for the past twenty years.

Mr. Damanti then asked if this is a staff service for the tables outside. Mr. Genovese responded there would be no waiter or waitress service. In response to Mr. Damanti's question about liquor,

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Mr. Genovese confirmed that there would be no wine or beer consumed outside as part of this proposal. Mr. Genovese then said that in his opinion, tables and chairs are just as viable as outside furniture as benches are.

Mr. Bigelow then asked how much space do they propose to take away from the greenery in front of the proposed Cosi restaurant and replacing with more concrete and tables and chairs. He said that it would be good to know the original scheme of street improvements for the downtown area. Mr. Maslan then asked if the Health Department considers the picnic tables at Uncle's Deli outside dining which would need to comply with their policies. Mr. Spain said the Commission needs to talk seriously about the dimensions of tables and chairs and sidewalks and needs to specifically distinguish between outside dining with service versus a take-out and sit-down at near-by tables and seats which would be available downtown. Mr. Spain noted that Mr. Genovese as a landlord is coordinating the application and he also complemented Mr. Genovese on actually applying for approval rather than just putting the tables and chairs on the sidewalk.

Mr. Damanti then asked if there were any comments, questions or concerns from the general public. There were none. Commission members then had some questions regarding whether they could find the sidewalk redevelopment plans approved by D.O.T. a few years ago. Some Commission members believe that this would be helpful and suggested that the public hearing remain open. Mr. Conze then made a motion to close the public hearing as he believed the Commission had sufficient information in the record to make an informed decision. Mr. Kenny seconded that motion which was approved by a vote of 5 to 1, with Mr. Bigelow voting against as he would have preferred to get additional information prior to the close of the hearing.

At approximately 9:35 P.M., Mr. Damanti then read the next agenda item:

**Business Site Plan #171-A, Thomas Golden Realty Co., 1063 and 1077 Boston Post Road**  
Proposing to raze the existing structures on Lot #8, construct a two-story building on that Lot; modify the existing access way and construct a portion of the parking on the adjacent property at 1077 Boston Post Road; and perform related site development activities. The subject properties are located on the north side of Boston Post Road, approximately 210 feet west of its intersection with Brook Street, and are shown on Assessor's Map #73 as Lots #8, and #7 and #42, in the CBD Zone.

Attorney William Hennessey was present on behalf of the property owners. He noted the property in question is approximately 11,850 square feet and is located next to the Darien movie theatre. It currently has frontage along the Boston Post Road. The existing building consists of a house which had formerly been converted to retail space and offices and is approximately 2,500 square feet. There is an existing four bay garage in the rear of the property. The proposal is to demolish both the buildings and construct a 60'x90' brick building which would have approximately 5,400 square feet on the first floor and a slightly indented/recessed second floor which would consist of approximately 4,980 square feet. The total size of the building would be approximately 10,380 square feet. Mr. Hennessey noted that the Architectural Review Board approved the building façade design. He explained that the building would have four very visible sides and a formal front façade and a much more used rear entrance, as that is where the parking would be. They propose to convert the existing driveway next to the movie theatre into a pedestrian walkway. Now the driveway serves as access to the unloading area and parking spaces in the rear of the theatre building.

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Property owner Thomas Golden explained that the loading dock is in the rear of the theatre building and that is where delivery vehicles will have to park, instead of them stopping and loading and unloading in the access driveway.

It was noted that in October of 2004, the Commission had previously discussed a building on this site of approximately 6,000 square feet in the concept stage, with a different parking lot configuration. In this case, they have proposed nine fewer parking spaces and approximately 4,400 square feet of additional floor area. Mr. Golden responded that this was one of many sketches but it would have created a busy connector between Boston Post Road and Grove Street. He noted that in fact, the previous owner of this property had built the four bay garage to prevent cut-through traffic between Boston Post Road and Grove Street.

Mr. Hennessey believed that the design of the building is great and encourages pedestrian access. On the first floor they propose to have a bank of approximately 2,800 square feet; another retailer on the first floor of approximately 2,600 square feet; and an office space consisting of one or more tenants of approximately 4,980 square feet on the second floor. The basement will be used for storage only and be used solely for the users of the building. It will probably be divided but there will be no locker rooms. He noted that the Fire Marshal had concerns about the location of the elevator and stair separation. Mr. Seelan Pather, an architect with Do Chung Associates, will clarify these details with the Fire Marshal.

Mr. Hennessey explained that the proposed bank, Washington Mutual, is not a "traditional" bank. He believes that the Commission's parking standards of 10 spaces per 1,000 square feet is very aggressive. He noted that both traffic engineering experts present this evening agreed that 74 parking spaces is much more than is needed. The two experts analyzed the proposed uses and one of the experts said that they would be 13 parking spaces short and the other noted that they would be eight parking spaces short. He said that that is why Section 905 of the Darien Zoning Regulations allows the Planning & Zoning Commission to take into account shared uses within an existing building. They propose to have 23 parking spaces on-site. Mr. Hennessey said that additional spaces can be created by on-street parking in the Boston Post Road, and that the owner has purchased parking vouchers for eight of the tenants.

Mr. Golden stated that he is the owner and manager of many properties throughout Darien. He explained that the growth of adjacent properties is needed for the success of the theatre site. He mentioned that others have followed suit to add to, renovate, convert, or reuse their properties. He reiterated that this is a non-traditional bank facility and he also proposes to have a less intense high-end retail use on the first floor rather than a "traditional" retail use. He noted that the Architectural Review Board has approved the project and they have also received a letter of support from the William Pitt Foundation which is in the file. Mr. Golden mentioned that he had 50 years experience in real estate development and that parking is not as important as proper management of an existing facility. He then gave 10 reasons why the project would be a success.

Mr. David Sullivan of Barkan & Mess Associates said that he prepared the parking study on this project and will also comment on the June 9, 2005 letter from Frederick P. Clark, the traffic expert hired by the Town. He studied the Washington Mutual Bank branches during peak hours. He noted that there are 35 to 40 customers in the bank and that they had no drive-through teller. He said that

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this is less customers than for another new bank recently proposed in downtown Darien that would have a drive-through. He explained that there are proposed to be four workers at the Washington Mutual Bank. He also noted that there are proposed to be two other employees in other high-end retail space for the first floor of this property and he also assumed 10 to 15 office workers on the second floor of this property. He therefore concluded that there would be in the range of 16 to 21 employees on this property. He said that there is certainly a difference between types of retail uses such as specialty retail or boutique; destination retail such as shoes or department stores; or impulse retail such as high volume coffee shops, lottery tickets, etc. Mr. Sullivan did confirm that they can have employees park elsewhere and could require them to walk to their office. Mr. Kenny then asked where bank customers would park to get access to the ATM in the rear of the building. Mr. Sullivan confirmed that customers would park in the nearest available parking space to the ATM or, if the parking lot is full, they would certainly park in the back of the area. He had no explanation for how customers would turn around in the parking lot if the back-up area gets filled with people who wish to park. The question was asked how could the Commission limit users in the proposed 2<sup>nd</sup> floor office to a low intensity user. A question also arose as to how much parking should be dedicated/allocated for the upstairs office use.

It was noted that the traffic intensity has recently increased downtown due to new buildings and tenants. Mr. Sullivan confirmed that parking demand was not greatly impacted but he did not study/update the traffic information. Mr. Kenny then asked why the Town asked for elimination of on-street parking on the Boston Post Road in front of the theatre. Mr. Sullivan said that he was not sure. Mr. Kenny then asked if there was an easement between this property and the movie theatre. Mr. Golden responded that in order to get 64 feet of parking lot width (20 feet for each parking space and 24 for the drive aisle) which would be a double loaded parking corridor, they needed a four (4) foot wide easement from the adjacent theatre property.

Mr. David Genovese, whose company owns a property at 1020 Boston Post Road, then spoke. He explained that Mr. Golden's project is "raising the bar" and is providing a higher standard for downtown Darien that is improving the Town.

Ms. Laurie Starita was present representing Washington Mutual Bank, one of the proposed first floor tenants. She said they use a more sophisticated technology and a number of typical bank transactions may be done from home by the customer. Thus they only need 4 employees on site. She said specifically that the bank will have no vault and no safety deposit boxes, which would also keep customer traffic flow down. She said that bank tellers are not behind the counter or any glass and computerized machines count money out to customers. She said that oftentimes there would be 4 tellers present plus the manager and that she did not have a specific number of required parking spaces. It was noted that there is also an ATM vestibule on the Post Road side of the property for the bank and that the bank acknowledged that there are a number of other banks throughout downtown Darien and the demand based upon the income of the community not the number of other banks. They acknowledged that they will certainly need to compete for customers with other banks.

Mr. Michael Galante of Frederick P. Clark Associates was present to answer questions regarding his June 9, 2005 letter. He said that the parking issue on this property is much bigger than the traffic issue and that Saturday traffic data would certainly have been helpful. He acknowledged that 74 parking spaces are required by the Darien Zoning Regulations and only 23 are being provided. He

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believed that at a minimum, they should have 36 parking spaces but that the ITE requirements were based on a very small sample. He noted that the bank will have much activity at the beginning and the middle of the month than in other parts of the month. He also acknowledged that having employees of this building walk from the municipal parking lot on Mechanic Street where Mr. Golden has purchased the parking vouchers from would be very far, as it is more than 5 blocks away.

Mr. Ginsberg noted that the application deadline to decide this matter would be July 7, 2005. After discussing it with his client, Mr. Hennessey confirmed they are willing to extend the decision deadline on this matter until July 12, 2005. Mr. Hennessey also confirmed that they had supplied a letter regarding the easement on the adjacent theatre property. There were no other comments or questions from Commission members or the general public. Mr. Conze made a motion to close the public hearing on this matter. That motion was seconded by Mr. Kenny and unanimously approved.

Commission members then took a two minute break and resumed in a general meeting at approximately 11:25 p.m.

### **GENERAL MEETING**

#### **Amendment of Coastal Site Plan Review #190, Flood Damage Prevention Application #203 Bohdan Kurlyko, 35 Beach Drive.**

Requested amendment to modify location of stone wall along front of property.

Mr. Ginsberg explained the differences in the stone wall along the front of the property, from what the Commission originally approved to what was actually built in the field. He acknowledged that Patty Warren, the architect, was present to answer any questions regarding the stone wall. Ms. Warren noted that a space was left in the stone wall to allow the Gulicks from across the street to back out of their property. After some discussion, Commission members agreed that the modified location of the stone wall would have no significant coastal or flood impacts, and Mr. Conze made a motion to approve the plan amendment as submitted. Mr. Kenny seconded that motion, which was unanimously approved.

Mr. Damanti read the next agenda item:

**Flood Damage Prevention Application #226, John Ackell & Shelley Carder, 68 Arrowhead Way.** Proposing to grade along the northern portion of the driveway and the northern portion of the garage to remove the corner of the proposed garage out of the flood Zone and to perform related site development activities within a regulated area. The subject property is located on the west side of Arrowhead Way, approximately 150 feet south of its intersection with Canoe Trail, and is shown on Assessor's Map #70 as Lot #50, R-1 Zone.

Mr. Ginsberg explained that the application is for a slight amount of fill around the house. He noted that all of the neighbors have "signed off" on the project. Mr. Damanti noted that Commission members have only received copies of one of the sign-offs. Mr. Ginsberg confirmed with Attorney Maslan who was present on behalf of the property owners that all of the neighbors have signed off, and copies of that were in the file. Mr. Ginsberg also explained that there will be a future application coming to the Planning & Zoning Commission in July for a land filling and regrading



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on this property, but that work is outside of the flood zone. Mr. Bigelow made a motion to approve the project as submitted. Ms. Forman seconded that motion which was unanimously approved.

*Discussion, deliberation and possible decisions on the following:*

Mr. Damanti read the next agenda item:

**Business Site Plan #228-A, Protected Town Landmark #7-A, Little Red Schoolhouse, 21 Tokeneke Road.** Proposing to construct a second story addition on the rear portion of the existing building; create a public plaza easement and a public pedestrian easement; and to perform related site development activities. The subject property is located on the southwest side of Tokeneke Road approximately 175 feet southeast of its intersection with Boston Post Road and Tokeneke Road, and is shown on Tax Assessor's Map #72 as Lot #46, CBD Zone.

Mr. Kenny made a motion to waive the reading of the Resolution, as Commission members have had time to read it over the weekend. That motion was seconded by Mr. Conze and unanimously approved. After due deliberation, Ms. Forman made a motion to adopt the Resolution as written. That was seconded by Mr. Bigelow. The motion passed by a vote of 5 to 0, with Mr. Conze abstaining as he was not at the public hearing on this matter.

**PLANNING AND ZONING COMMISSION  
ADOPTED RESOLUTION  
JUNE 14, 2005**

Application Number: Business Site Plan #228-A  
Protected Town Landmark Application #7-A

Street Address: 21 Tokeneke Road

Tax Assessor's Map #72 Lot #46

Name and Address of Property Owner: Little Red Schoolhouse Properties, LLC.  
201 Grandview Road  
Fairfield CT 06432

Name and Address of Applicant and Applicant's Representative: Robert F. Maslan, Jr., Esq.  
Maslan Brown & Associates, LLP  
PO Box 37  
Darien, CT 06820

Activity Being Applied For: Proposing to construct a second story addition on the rear portion of the existing building; create a public plaza easement and a public pedestrian easement; and to perform related site development activities.

Property Location: The subject property is located on the southwest side of Tokeneke Road approximately 175 feet southeast of its intersection with Boston Post Road and Tokeneke Road.

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Zone: CBD

Date of Public Hearing: May 24, 2005

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices

Dates: May 12 & 19, 2005

Newspaper: Darien News-Review

Date of Action: June 14, 2005

Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of  
Action: June 23, 2005

Newspaper: Darien News-Review

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 650, 1020, and 1051 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The subject property, 21 Tokeneke Road is a significant historical feature of the Town of Darien. The applicant submitted materials during the public hearing documenting the historical significance of this structure. As noted in the prior approval for this property (Tab 6 in the submitted application materials), Town Historian Marian Castell wrote a memo dated July 11, 2000 outlining the landmark status of this building. It is believed to be one of the oldest commercial building existing in Darien today. The building, the former Center District School, was originally constructed on Brookside Road near the Darien Congregational Church.
2. The Planning & Zoning Commission approved a similar second floor addition in 2000, but the addition was not built.
3. At its meeting of May 17, 2005, the Architectural Review Board approved the proposed addition.
4. As part of the current application, the applicant proposes creation of a public plaza adjacent to Center Street. A portion of the site will be dedicated for public use and access.

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5. The application complies with all of the requirements of Sections 650 and 1051 of the Darien Zoning Regulations, except for those items specifically waived herein as part of the Protected Town Landmark status.

NOW THEREFORE BE IT RESOLVED that Business Site Plan #228-A and Protected Town Landmark Application #7-A (Special Permit) are hereby modified and approved subject to the foregoing and following stipulations, modifications and understandings:

- A. Construction shall be in accordance with the plans entitled:
- Alterations & Additions for Little Red Schoolhouse Properties, LLC, by BBS Design, LLC, dated 04/22/05, Sheets SK-4 and SK-5.
  - Alterations & Additions for Little Red Schoolhouse Properties, LLC, by BBS Design, LLC, dated 04/22/05, Sheets SK-1 and SK-2.
- B. The Protected Town Landmark designation under Section 1051 of the Darien Zoning Regulations allows the Planning and Zoning Commission to waive the requirement for on-site parking spaces. The Commission hereby waives the requirement to create six additional on-site parking spaces, and in lieu thereof, a publicly-accessible plaza on the Center Street side of the property shall be created. The decision was made in part because the large municipal parking lot located on the west side of Center Street has provided sufficient customer and employee parking.
- C. Final plans for the public plaza area which is to be located in the rear of the building shall be designed by the applicant and reviewed and acted upon by the Architectural Review Board. The plaza area shall be completed prior to a final Certificate of Occupancy for the addition to the building. The land on which the plaza is located shall be owned by the Town, but the maintenance and upkeep of the plaza shall be the responsibility of the owner of the site containing the Little Red Schoolhouse until such time as the Town affirmatively assumes that responsibility.
- D. All sign designs for the property shall be in accordance with the historic nature of the building, and will require prior review and approval from the Architectural Review Board.
- E. The pedestrian easement agreement through the alley way as well as the public plaza easement on the Center Street side of the site shall be reviewed and approved by Darien Town Counsel and shall be filed in the Darien Land Records prior to the issuance of a Zoning Permit to allow construction of the addition.
- F. Because of the historic nature of the building, and the fact that the applicant has had the structure specifically designated as a Protected Town Landmark, the Commission hereby requires that the satellite dish, skylights, and vent pipe on the rear roof be removed, and the neon "Open" sign be removed. These items shall be removed prior to the issuance of a Zoning Permit to allow construction of the addition. No such items, or similar items that are incongruent with the historical character of the building shall be installed or maintained at any time in the future.

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- G. The granting of these Permits does not relieve the applicant of responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies.
- H. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- I. These permits shall be subject to the provisions of Section 1028 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one year. These may be extended as per Section 1028.

All provisions and details of the plan shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman, and the filing of a Special Permit form in the Darien Land Records. The public plaza easement and the pedestrian easement shall be submitted to the Planning and Zoning Department within 60 days of this action or this approval shall become null and void.

Mr. Damanti read the next agenda item:

**Mandatory Referral, Coastal Site Plan Review #207, Flood Damage Prevention Application #223, Town of Darien Sewer Commission, Five Mile River Road.** Proposing to install low pressure sanitary sewer main and stubbed laterals to serve residences along Five Mile River Road and perform related site development activities within regulated areas. The area of sewer installation is within the Five Mile River Road right-of-way from #86 to #147, excluding #87, approximately 2,850 feet in length, and is shown on Assessor's Maps #66 and #67, in the R-1/2 Zone.

It was agreed by Commission members that someone should be present from the Sewer Services Department to be present at any future public hearings to explain the proposal to Commission members and to the general public. Mr. Spain made a motion to approve the Mandatory Referral Report as drafted, and that motion was seconded by Ms. Forman and unanimously approved by a vote of 6 to 0. Ms. Forman then made a motion to adopt the Resolution as written. That motion was seconded by Mr. Spain and unanimously approved by a vote of 6 to 0. The approved Report and Adopted Resolution are as follows:

**DARIEN PLANNING AND ZONING COMMISSION  
C.G.S. SECTION 8-24 MANDATORY REFERRAL REPORT  
SEWER COMMISSION, SANITARY SEWER EXTENSION  
June 14, 2005**

**Mandatory Referral, Coastal Site Plan Review #207, Flood Damage Prevention Application #223, Town of Darien Sewer Commission, Five Mile River Road.** Proposing to install low pressure sanitary sewer main and stubbed laterals to serve residences along Five Mile River Road

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and perform related site development activities within regulated areas. The area of sewer installation is within the Five Mile River Road right-of-way from #86 to #147, excluding #87, approximately 2,850 feet in length, and is shown on Assessor's Maps #66 and #67, in the R-1/2 Zone.

During a public hearing on May 24, 2005, this project was explained to the Planning and Zoning Commission.

The Commission, having reviewed the proposal, hereby approves said proposal and issues its report as follows:

This project is to install 2,850 +/- linear feet of low pressure sewer main and associated lateral connectors within the right-of-way of Five Mile River Road.

The Commission finds that the proposed sanitary sewer extensions are consistent with Town plans, policies and objectives, and the Town Plan of Development. The 1995 Town Plan of Development notes on page 136, that "...[sewer] extensions have been, and will continue to be allowed adjacent to sewer areas where...health concerns associated with failing septic systems exist." It also notes that consideration should be given to installing sewers in the coastal areas near Long Island Sound. As noted in the referral request from the Director of Public Works, the area was recommended to have sewers installed in the 1997 Wastewater Facilities Plan.

**PLANNING AND ZONING COMMISSION  
ADOPTED RESOLUTION  
June 14, 2005**

Application Number: Coastal Site Plan Review #207  
Flood Damage Prevention Application #223

Name and Address of Applicant: Darien Sewer Commission  
2 Renshaw Road  
Darien, CT 06820

Name and Address of Property Owner: Town of Darien  
2 Renshaw Road  
Darien, CT 06820

Name and Address of  
Applicant's Representative: Michael Fishman  
Stearns & Wheeler, LLC  
1 Remington Park Drive  
Cazenovia, NY 13035

Activity Being Applied For: Proposing to install low pressure sanitary sewer main and stubbed laterals to serve residences along Five Mile River Road and perform related site development activities within regulated areas.

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Property Location: The area of sewer installation is within the Five Mile River Road right-of-way from #86 to #147, excluding #87 (which is already sewered), approximately 2,850 feet in length, and is shown on Assessor's Maps #66 and #67

Zone: R-1/2

Date of Public Hearing: May 24, 2005

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices

Dates: May 12 & 19, 2005

Newspaper: Darien News-Review

Date of Action: June 14, 2005

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:  
June 23, 2005

Newspaper: Darien News-Review

The Commission has conducted its review and findings on the bases that:

- the proposed activities must comply with all provisions of Sections 810 and 820 of the Darien Zoning Regulations for the Commission to approve this project.
- the nature, and intensity of the proposed activities are described in detail in the application, the submitted plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The subject application is comprised of two parts: 1) a Coastal Site Plan Review under Section 810 of the Darien Zoning Regulations; and 2) a Flood Damage Prevention Application under Section 820 of the Darien Zoning Regulations. The Planning and Zoning Commission has issued a separate Mandatory Referral Report dated June 14, 2005.
2. An email was received from John Gaucher, State of Connecticut DEP, noting that they had no comments for the Commission's consideration.
3. The installation of 2,850 +/- linear feet of low pressure sewer main and associated lateral connectors and other proposed activities will have no adverse impacts on flooding and, therefore, this proposal is consistent with the need to minimize flood damage.

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4. The Commission finds that the proposed sewer extensions, if properly implemented, are not contrary to the goals, objectives and policies of the Coastal Area Management Program.
5. The proposed activity, as modified within this resolution, is consistent with the goals and policies in Section 22a-92 (the Connecticut Coastal Area Management Act) of the Connecticut General Statutes. The conditions as outlined herein include all reasonable measures that would mitigate any adverse impacts by the proposed activity on coastal resources.
6. The Commission has considered all evidence offered at the Public Hearing regarding the character and extent of the proposed activities, the land involved, the possible effects of the activities and on the surrounding areas, and the suitability of such actions to the area for which it is proposed.

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #207 and Flood Damage Prevention Application #223 are hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Installation of the sanitary sewer line shall be in accordance with the plans entitled:
  - Town of Darien, Connecticut, Five Mile River Road Sanitary Sewer Extension, by Stearns & Wheler, LLC, Plan and Profile, dated 4/05, Sheet 1.
  - Town of Darien, Connecticut, Five Mile River Road Sanitary Sewer Extension, by Stearns & Wheler, LLC, Plan and Profile, dated 4/05, Sheet 2.
  - Town of Darien, Connecticut, Five Mile River Road Sanitary Sewer Extension, by Stearns & Wheler, LLC, Plan and Profile, dated 4/05, Sheet 3.
  - Town of Darien, Connecticut, Five Mile River Road Sanitary Sewer Extension, by Stearns & Wheler, LLC, Details, dated 4/05, Sheet 4.
- B. The Darien Health Department must witness proper abandonment procedures for the septic systems as homeowners tie into the new sanitary sewer system.
- C. Each property owner will be responsible for the installation of the laterals from their residence to the sewer line.
- D. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the plans and any additional measures as may be necessary due to site conditions. These sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- E. The granting of this Permit does not relieve the applicant of responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies.
- F. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive,

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incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke this permit as it deems appropriate.

- G. This permit shall be subject to the provisions of Sections 815 and 829f of the Darien Zoning Regulations, including but not limited to, submission of certification that the work has been completed in conformance with the permit, and implementation of the approved plan within one year of this action (June 13, 2006). This may be extended as per Sections 815 and 829f.

All provisions and details of the plan shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman.

*Discussion, deliberation and possible decisions on the following items if the public hearing has been closed:*

**Business Site Plan #24-O/Special Permit, Baskin-Robbins Ice Cream, 25 Old King's Highway North.** Proposing to establish an ice-cream parlor within Goodwives Shopping Center.

Mr. Ginsberg was instructed by the Commission to draft a Resolution for their consideration on June 28th.

**Amendment of Business Site Plan #109/Special Permit, 980 Boston Post Road Associates, LLC, 980 Boston Post Road.** Proposing to establish outdoor dining in front of the existing building.

Commission members agreed to have further discussion on this matter on June 28<sup>th</sup>. There were a number of ideas from Commission members regarding limiting the proposal as much as possible. They did note that this was a precedent setting proposal, and one idea would be to give it a conditional approval for the summer of 2005 and follow-up in 2006 to see how it actually worked in the field. The width of the sidewalk was extremely critical, and in this case the sidewalk did seem somewhat wide. Any future resolution drafted by the Commission on this matter should include very specific dimensions. It is also important to define outdoor seating versus outdoor dining. The whole question of street furniture substitution (i.e. benches vs. tables and chairs) was also important to be considered.

There being no other business, the meeting was then adjourned at 11:40 p.m.

Respectfully submitted,

Jeremy B. Ginsberg  
Planning & Zoning Director